



4/29/11

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TITLE: PROCESS AND DEVICE FOR MULTI-LEVEL TELEVISION PROGRAM ABSTRACTION

APPLICATION NO.: 09/724,926

PATENT NO.: 7,080,392

FILED: November 28, 2000

INVENTOR: DAVID MICHAEL GESHWIND

USPTO
PETITIONS ACCOUNTING
DIVISION
2011 APR 28 PM 4:06

April 22, 2011

Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria VA, 22313-1450

05/02/2011 DALLEN 00000015 7080392
01 FC:1599 2130.00 OP
02 FC:1462 400.00 OP

**PETITION FOR RECONSIDERATION OF
DENIAL OF PETITION TO ACCEPT
LATE PAYMENT OF MAINTENANCE FEE**

1. Petitioner hereby requests reconsideration of her petition to accept the unintentionally delayed payment of the maintenance fee for the above referenced patent.
2. The petition to accept the unintentionally delayed payment was dismissed due to non-payment of the maintenance fee and surcharge by the Office of Petitions (Exhibit A)
3. When Petitioner originally filed the petition to accept the unintentionally delayed payment on December 21, 2010 (Exhibit B -with credit card form partially redacted) a credit card payment form was attached, however, the credit card number had some transposed numbers and the payment did not go through.
4. On Friday January 7, 2011, Ms. Baylor of the Maintenance Fee Office left a message at Petitioner's office concerning the problem with the credit card information.

5. On Monday January 10, 2011 Petitioner faxed a corrected credit card form to Ms. Baylor's attention to a fax number in the maintenance fee department (Exhibit C - with credit card form partially redacted). The last page of Exhibit C is the fax transmission report. (Please note that the number on the fax transmission report is a carrier access number, which is dialed prior to the actual fax number that the fax is being sent to.)

6. Approximately a week after the corrected payment form was sent in, Petitioner contacted the maintenance fee department to confirm that the payment had been received. Petitioner was told that the processing of the petition would take additional time to show up in the records.

7. Petitioner subsequently received the notice dismissing the petition to accept the delayed payment of the maintenance fee (Exhibit A).

8. Petitioner subsequently contacted Ms. Baylor who indicated that the fax number given to Petitioner was not the formal number for maintenance fee payments, but an informal one near her office. She said that unfortunately, that fax machine did not keep a record of the faxes it received and that she did not have a record of receiving the corrected credit card payment form.

9. Petitioner acknowledges that the payment was never processed.

10. Petitioner states that the delay in payment of the maintenance fee was unintentional.

11. Petitioner has annexed hereto a credit card form for the maintenance fee, \$490 surcharge \$1640 and \$400 petition fee totaling \$2530.

12. Petitioner requests that the delayed payment of the maintenance fee be accepted and the patent be reinstated.

13. Petitioner further requests that as Petitioner did send a corrected credit card form to pay the maintenance fee and surcharge to the appropriate department of the Patent Office as directed, that the petition fee provided herewith, be refunded.

Date: April 22, 2011



Anne C. Avellone
Registration No. 43,479
Two Lincoln Square
New York, NY 10023

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

A circular stamp with a double-line border. The outer ring contains the words "PATENT & TRADEMARK OFFICE" at the top and "U.S. PATENT AND TRADEMARK OFFICE" at the bottom. The inner circle contains the date "APR 22 2011" in the center.

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**ANNE C. AVELLONE, ESQ.
TWO LINCOLN SQUARE-SUITE 36J
NEW YORK NY 10023**

MAILED
FEB 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,080,392
Issue Date: May 3, 2005
Application No. 09/724,926
Filed: November 28, 2000
Attorney Docket No. TVABST

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 21, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is DISMISSED.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks items (2) and (3) above.

With respect to items (2) and (3): The petition filed December 21, 2010, cannot be accepted as being in compliance with 37 CFR 1.378(c) because the petition stated the payment of the maintenance fee and surcharge were to be paid by credit card. However, a review of the Office record shows that the credit card payment could not be processed because the credit card was declined. No consideration on the merits can be given until the required fee deficiency is remitted.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision and as stated above, must be accompanied by the additional fee of \$400. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION

U.S. Patent No. 7,080,392

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

EXHIBIT B

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF
MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))**Docket Number (Optional)
ABS-A

Mail to: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450
 Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. 7,080,392 Application Number 09/724,926

Issue Date July 18, 2006 Filing Date November 28, 2000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

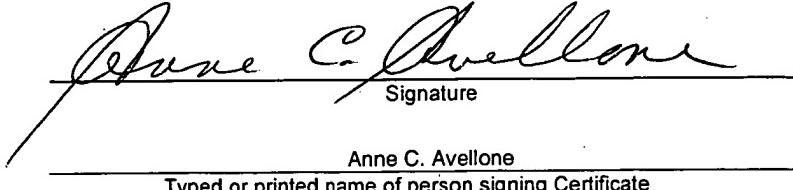
The above - identified patent:

- is a reissue of original Patent No. _____, original issue date _____;
 original application number _____,
 original filing date _____.
- resulted from the entry into the U.S. under 35 U.S.C. 371 of international
 application _____ filed on _____.

CERTIFICATE OF MAILING (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

December 21, 2010
Date



Signature

Anne C. Avellone
Typed or printed name of person signing Certificate

[Page 1 of 3]

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

1. SMALL ENTITY

 Patente claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

 Patente is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
<input type="checkbox"/> \$ _____	3 1/2 yr fee	(1551)	<input checked="" type="checkbox"/> \$ <u>490</u>	3 1/2 yr fee	(2551)
<input type="checkbox"/> \$ _____	7 1/2 yr fee	(1552)	<input type="checkbox"/> \$ _____	7 1/2 yr fee	(2552)
<input type="checkbox"/> \$ _____	11 1/2 yr fee	(1553)	<input type="checkbox"/> \$ _____	11 1/2 yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED \$ 490

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of \$ 1640 (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.SURCHARGE BEING SUBMITTED \$ 1640

5. MANNER OF PAYMENT

 Enclosed is a check for the sum of \$ _____ Please charge Deposit Account No. _____ the sum of \$ _____ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

 The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

7. OVERPAYMENT

As to any overpayment made please

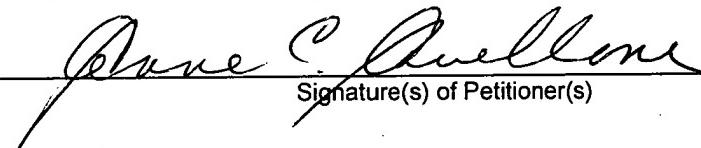
- Credit to Deposit Account No. _____.
- OR**
- Send refund check.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.


Signature(s) of Petitioner(s)

December 21, 2010

Date

Anne C. Avellone

43,479

Typed or printed name(s)

Registration Number, if applicable

212/787-1275

Telephone Number

Two Lincoln Square - 36J

Address

New York, NY 10023

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES:

- Maintenance Fee payment
- Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)
- _____

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Credit Card Payment Form

(Do not submit this form electronically via EFS-Web)

Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type: Visa MasterCard American Express Discover

Credit Card Account #: [REDACTED] 710

Credit Card Expiration Date: [REDACTED]

Name as it Appears on Credit Card: Anne C. Avellone

Payment Amount: \$ (US Dollars): TWO THOUSAND ONE HUNDRED THIRTY (\$2130)

Cardholder Signature: *Anne C. Avellone* Date: 12/21/10

Refund Policy: The USPTO may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The USPTO will not refund amounts of \$25.00 or less unless a refund is specifically requested and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.

Service Charge: There is a \$50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21 (m)).

Credit Card Billing Address

Street Address 1: [REDACTED]

Street Address 2: [REDACTED]

City: [REDACTED]

State/Province: [REDACTED]

Zip/Postal Code: [REDACTED]

Country: USA

Daytime Phone #: [REDACTED]

Fax #: [REDACTED]

Request and Payment Information

Description of Request and Payment Information:

3.5 YEAR MAINTENANCE FEE, PETITION FEE FOR UNINTENTIONAL LATE PAYMENT

+

<input checked="" type="checkbox"/> Patent Fee	<input type="checkbox"/> Patent Maintenance Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No. 09/724,926	Application No.	Application No.	IDON Customer No.
Patent No. 7,080,392	Patent No.	Registration No.	
Attorney Docket No. ABS.A	Identify or Describe Mark		

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form or submits this form electronically via EFS-Web, the United States Patent and Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

EXHIBIT C

TO: Ms. Baylor
US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

VIA FAX: (571) 273-1074

FROM: Anne C. Avellone (Reg. No. 43,479)
UNIPAT.ORG
(212) 787-1275 (Phone)
(646) 619-4039 (Fax)

DATE: January 10, 2011

RE: US Pat. No. 7,080,392 (SN: 09/724,926)
Correction to Credit Card Form in Petition to Accept Unintentionally
Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR
1.378 (c))

PAGES: 2, including this cover page.
Corrected Credit Card Payment Form (1 page)

Ms. Baylor:

As per the message you left with my office on Friday, please find attached a corrected credit card payment form for the above referenced fee.

If you require anything further, please call me.

Thank you very much for your assistance in this matter.

Anne C. Avellone

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

Credit Card Payment Form

(Do not submit this form electronically via EFS-Web)
Please Read Instructions before Completing this Form

Credit Card Information

Credit Card Type: Visa MasterCard American Express Discover

Credit Card Account #: [REDACTED] 2017

Credit Card Expiration Date: [REDACTED]

Name as it Appears on Credit Card: Anne C. Avellone

Payment Amount: \$ (US Dollars): TWO THOUSAND ONE HUNDRED THIRTY (\$2130)

Cardholder Signature: *Anne C. Avellone* Date: 01/10/11

Refund Policy: The USPTO may refund a fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee will not entitle a party to a refund of such fee. The USPTO will not refund amounts of \$25.00 or less unless a refund is specifically requested and will not notify the payor of such amounts (37 CFR 1.26). Refund of a fee paid by credit card will be issued as a credit to the credit card account to which the fee was charged.

Service Charge: There is a \$50.00 service charge for processing each payment refused (including a check returned "unpaid") or charged back by a financial institution (37 CFR 1.21 (m)).

Credit Card Billing Address

Street Address 1: [REDACTED]

Street Address 2: [REDACTED]

City: [REDACTED]

State/Province: [REDACTED]

Zip/Postal Code: [REDACTED]

Country: USA

Daytime Phone #: [REDACTED]

Fax #: [REDACTED]

Request and Payment Information

Description of Request and Payment Information:

3.5 YEAR MAINTENANCE FEE, PETITION FEE FOR UNINTENTIONAL LATE PAYMENT

[+]

<input type="checkbox"/> Patent Fee	<input checked="" type="checkbox"/> Patent Maintenance Fee	<input type="checkbox"/> Trademark Fee	<input type="checkbox"/> Other Fee
Application No.	Application No. 09/724,926	Application No.	IDON Customer No.
Patent No.	Patent No. 7,080,392	Registration No.	
Attorney Docket No. ABS.A		Identify or Describe Mark	

If the cardholder includes a credit card number on any form or document other than the Credit Card Payment Form or submits this form electronically via EFS-Web, the United States Patent and Trademark Office will not be liable in the event that the credit card number becomes public knowledge.

TRANSMISSION VERIFICATION REPORT

TIME : 01/10/2011 13:11

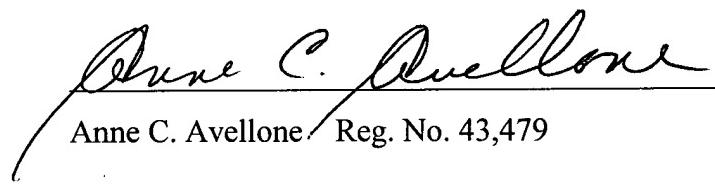
DATE, TIME	01/10 13:11
FAX NO./NAME	18006468949
DURATION	00:01:39
PAGE(S)	02
RESULT	OK
MORE	FINE ECM

CERTIFICATE OF EXPRESS MAILING

EXPRESS MAIL NUMBER: EG 797394130 US

DATE OF DEPOSIT: April 22, 2011

I hereby certify that the enclosed correspondence and fees are being deposited with sufficient postage attached with the United States Post Office Express Mail to Addressee Service on the above date addressed to Mail Stop PETITION, Commissioner for Patents, Post Office Box 1450, Alexandria, VA 22313-14550.



Anne C. Avellone
Anne C. Avellone Reg. No. 43,479